

**REMARKS****Summary of the Office Action**

Claims 1, 2 and 8-11 stand rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite.

Claims 1-4, 6, 8 and 9 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Bandai et al. (Japanese Patent Publication No. 08-111542) (hereinafter "Bandai").

Claim 7 stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bandai.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bandai in view of Derderian et al. (U.S. Patent Publication No. 2008/0268563) (hereinafter "Derderian").

Claims 10 and 11, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

**Summary of the Response to the Office Action**

Applicant has amended claims 10 and 11 to be rewritten in independent form in response to the Office Action's indication of allowable subject matter. Claim 1 has thus been canceled without prejudice or disclaimer. Accordingly, the dependencies of claims 2-9 have thus been amended and new dependent claims 16-23 have been added. Also, features of claims 1 (now incorporated in claims 10 and 11), 2, 8, 9, 10 and 11 have been amended to improve the form of the claims. Finally, withdrawn claims 12-15 have been canceled without prejudice or disclaimer to their possible future presentation in a divisional application. Accordingly, claims 2-11 and 16-23 are currently pending and under consideration.

**Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 1, 2 and 8-11 stand rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite. Applicant has amended claims 1 (now incorporated into claims 10 and 11), 2, 8, 9, 10 and 11 in response to the Examiner's comments at pages 2 and 3, sections 2-8 of the Office Action to improve the form of the claims. Applicant respectfully submits that all of the currently pending claims, as amended, fully comply with the requirements of 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests that the rejections under 35 U.S.C. § 112, second paragraph be withdrawn.

**Rejections under 35 U.S.C. §§ 102(b) and 103(a)**

Claims 1-4, 6, 8 and 9 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Bandai. Claim 7 stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Bandai. Claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bandai in view of Derderian. Applicant has amended claims 10 and 11 to be rewritten in independent form in response to the Office Action's indication of allowable subject matter. Also, features of claims 1 (now incorporated in claims 10 and 11), 2, 8, 9, 10 and 11 have been amended to improve the form of the claims, resolving the issues raised by the Examiner under 35 U.S.C. § 112, second paragraph. Accordingly, newly-amended independent claims 10 and 11 are now in condition for allowance at least in light of the Office Action's indication of allowable subject matter.

Accordingly, Applicant respectfully asserts that the rejections under 35 U.S.C. §§ 102(b) and 103(a) should be withdrawn because Bandai does not teach or suggest each feature of independent claims 10 and 11 of the instant application, as newly-amended. As pointed out in

MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim."

Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)."

Furthermore, Applicant respectfully submits that the dependent claims 2-9 and 16-23 are allowable at least because of their dependence from newly-amended independent claims 10 or 11, and the reasons discussed previously.

### **CONCLUSION**

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response; the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

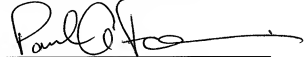
This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**DRINKER BIDDLE & REATH LLP**

Dated: February 25, 2009

By:

A handwritten signature in black ink, appearing to read 'Paul A. Fournier', is written over a horizontal line.

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